

REMARKS

Claims 1-72 are pending in this application, and are subject to restriction between groups I-XIV.

Applicants elect group III with traverse, as indicated below. Group III comprises the claims of 4-6, 14-21, 23-24, 46, 48, 54, and 56.

The restriction requirement is respectfully traversed. Applicants note that, in MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; and (B) there must be a serious burden on the examiner if restriction is required. Both of these requirements must be met before a restriction can be made.

Applicants therefore submit that Groups III and IV should be examined together. In this instance, while the inventions of Groups III and IV meet criterion (A), they do not meet criterion (B). A search for art describing a nucleic acid encoding an antibody will inevitably also encompass art describing the antibodies encoded by those nucleic acids, almost certainly in the same publication. Likewise, a search for art directed to an antibody will also encompass art describing how that antibody was made, again most likely in the same publication. Thus Applicants contend that the second criterion, that of a serious burden on the Examiner, has not been met.

In particular, as an example of how the subject matter of Groups III and IV leads to co-extensive searches and a lack of undue burden, Applicants note that a single chain antibody is included in Group III as claim 24. The vector encoding that antibody is included in Group IV as, e.g., claim 25. Given that recombinant DNA methods would almost certainly be used to produce the single chain antibody, a search for the vector will turn up the single chain antibody, and a

search for the single chain antibody will turn up the vector used to make it. Accordingly, Groups III and IV should be examined in the same application.

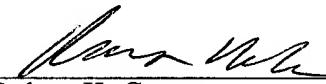
Applicants also thank the Examiner for indicating that, upon allowance of a linking claim, the restriction requirement will be withdrawn.

Applicants expressly reserve the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 511582002800. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: September 15, 2003 By:



Robert K. Cerpa
Registration No. 39,933
Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5715
Facsimile: (650) 494-0792